

1 Donald Reuwer, Jr.

* BEFORE THE

2 Petitioner

* PLANNING BOARD OF

3 Planning Board Case 377

* HOWARD COUNTY, MARYLAND

4 * * * * *

5 DECISION AND ORDER

6 On January 11, 2007, the Planning Board of Howard County, Maryland, in accordance
7 with Section 107.E of the Howard County Zoning Regulations, opened a public hearing to
8 consider the petition of Donald Reuwer for approval of a Preliminary Equivalent Sketch Plan,
9 SP-06-15, Grovemont Overlook for the subdivision of 33 single family detached residential lots
10 and 3 open space lots on 17.87 acres of land zoned R-ED (Residential-Environmental
11 Development). The subject property is identified as Lots 3 & 4 of the Legal Property (Parcel
12 749) and Lot 1 of the Geelhaar Property (p/o Parcel 619) on Tax Map 31, Grid 24 and is
located on the east side of Landing Road, midway between Ilchester Road to the north and
Montgomery Road to the south. Landing Road is a scenic roads.

13 The Notice of the Hearing was published and the subject property was posted in
14 accordance with the Planning Board's requirements, as evidenced by certificates of publication
15 and posting, all of which were made a part of the record of the case. Pursuant to the Planning
16 Board's Rules of Procedure, all of the reports and official documents pertaining to the Petition,
17 including the Howard County Code, General Plan of Howard County, Howard County Zoning
18 Map, Howard County Zoning Regulations, the Technical Staff Report of the Department of
Planning and Zoning, and the reports of the responding reviewing agencies were made part of
the record.

19 PLANNING BOARD HEARING

20 The Chairperson opened the public hearing at 8:50 pm. Jeanette Anders presented
21 the Technical Staff Report, which recommended approval of the proposed plan as being
22 effective in minimizing disturbance to existing topography, vegetation and landscape resources.
23 Mr. Rosenbaum asked what Division of Land Development issues remained to be resolved,
and Ms. Anders replied that the access to Lot 2 would be resolved with the subdivision of
Geelhaar Lot 2 unless the owners of that lot voluntarily changed their access before that time.

24 PETITIONER'S TESTIMONY

25 The Petitioner was represented by Mr. Robert H. Vogel of Robert H. Vogel Engineering,
Inc., the project engineer. Mr. Vogel described the considerations employed in designing the
project to minimize the environmental impacts to the site. Mr. Vogel introduced Petitioner's

1 Exhibit 1, SP-06-15, Grovemont Overlook and summarized the proposal. The design is in
2 compliance with the R-ED criteria, especially in its minimization to disturbance through design
3 of the road and open space to retain forest and steep slopes. He also discussed the issue of
4 an existing easement on the rear of proposed lots to serve the existing Geelhaar Lot 2. While
5 the owner of that lot cannot be forced to abandon the easement at this time, provision for
6 alternative access through Grovemont Overlook has been designed for the future subdivision
7 of Lot 2 into 2 future lots.

8 Ms. CitaraManis gave citizens the opportunity to cross examine petitioner's witness.
9 Ms. Kathy Hudson of 6018 Old Lawyers Hill Road in Elkridge asked Mr. Vogel why a 40-foot
10 right-of-way was designed rather than 16-foot wide roads. Mr. Vogel explained that the 40-foot
11 right-of-way is the minimum current design manual standard for safe access by school buses
12 and the Department of Fire and Rescue Services. Ms. Hudson also asked Mr. Vogel whether
13 the proposed road would connect to Belmont Conference Center in the future through the
14 Patapsco State Park. Mr. Vogel indicated that the Petitioner did not request nor has any future
15 plans to request a road connection to adjacent public lands.

16 Ms. Terry Geelhaar of 5295 Landing Road, Elkridge, Maryland, asked Mr. Vogel to
17 confirm that Lot 2 could still have access along the driveway within the easement along the rear
18 of proposed lots. Mr. Vogel replied that access could continue. He stated that his firm had
19 been requested by the Department of Planning and Zoning to evaluate the subdivision potential
20 of Lot 2 and to provide accordingly for future access

21 Mr. Rosenbaum reiterated that the Geelhaar Lot 2 has development potential for a total
22 of 2 future lots. He also questioned why a public road was not used rather than a use-in-
23 common drive. Mr. Vogel replied that a third public road on the site would be excessive.

24 Ms. Dombrowski asked Mr. Vogel whether the existing forest was sufficient for forest
25 conservation requirements or whether additional plantings were needed. Mr. Vogel stated that
26 additional plantings, preferably 1 inch calibers, would be necessary in the area near the state
27 park and the Geelhaar Lot 2. Ms. Dombrowski agreed that the location was an appropriate
28 placement.

29 There being no more cross examination questions by citizens and the Petitioner did not
30 have any questions on redirect, Ms. CitaraManis asked if anyone wished to speak in support or
31 in opposition to the proposal. Ms. Hudson stated that she wanted the Decision and Order to
32 include that there would be no access or ability to access the adjacent property to allow access
33 through the Patapsco State Park. Ms. Geelhaar stated that there are large trees on the
34 northeast portion of the site which were not proposed for protection. There being no rebuttal by

1 the petitioner, the hearing was closed at 9:37 pm. Mr. Grabowski motioned for approval, which
2 was seconded by Ms. Dombrowski.

3 Mr. Grabowski and Mr. Rosenbaum said the plan met the Zoning criteria for the R-ED
4 District concerning minimal impact. Ms. Dombrowski said that the plan was on harmony with
5 the intent of the R-ED district. She suggested that DPZ relieve the concern of Ms. Geelhaar
6 concerning the retention of the access easement. She agreed with Ms. Geelhaar that the staff
7 report implied that the easement was being abandoned. Ms. Dombrowski requested as part of
8 her motion that the Planning Board's Decision clarify the status and continued use of the
9 easement.

10 Ms. Dombrowski requested that the record reflect that the board reserved the authority
11 for Planning Board approval of the future site development plan. Ms. CitaraManis requested
12 clarification on the issue of road access raised by Ms. Hudson and if failure to include access
13 on this plan prevented a future request. Ms. McLaughlin indicated that there had been no
14 indication from the Petitioner that they intended to access Belmont through the adjacent State
15 Park property and if a future request was made, the Petitioner would be required to come
16 before the Planning Board for review. Ms. CitaraManis called for a vote. All 4 members were
17 in favor and approved the plan.

18 At approximately 9:37 pm, Ms. CitaraManis closed the hearing.

19 FINDINGS OF FACT

- 20 1. The proposed Preliminary Equivalent Sketch Plan, SP-06-15, Grovemont
21 Overlook, is for the subdivision of 33 single family detached residential lots and 3
22 open space lots on 17.87 acres of land zoned R-ED.
- 23 2. This project is subject to compliance with the Amended Fifth Edition of the
24 Subdivision and Land Development Regulations and the April 13, 2004 Zoning
25 Regulations.
3. The area of the proposed residential lots on the development plan is approximately
17.87 acres and the area of the proposed open space lots is approximately 9.04
acres or 50.5% per cent of the site.
4. The proposed layout of lots and open space effectively protects environmental and
historic resources. Two of the three existing houses will be retained. The total
disturbed area associated with the proposal for 31 new residential lots, two roads,
and three stormwater management facilities is about 12.3 acres of the gross site
area of 17.87 acres. Proposed forest clearing is 0.69 acres. The remaining 1.21

1 acres of forest to remain will be protected within Forest Conservation Easements
2 on Open Space Lots. Additional mitigation is required in the amount of 2.16 acres
3 of planting on the site. The credited open space proposed for this site is 9.04 acres,
4 which is 50.5% of the gross site area, exceeding the required 50% open space in
5 this R-ED zoned district. In addition to forest protection, the open space is
6 provided to protect other environmental features, for stormwater management, for
7 recreation, and to buffer the houses and adjacent properties. The developer has
8 accomplished protection of environmental and landscape resources in the
9 following ways:

- 10 ▪ by clustering most of the residential lots on the central open area, which is the
11 area of the site most easily developed;
- 12 ▪ by designing the lots to be as near in size to the minimum lot size allowed as
13 practicable;
- 14 ▪ by meeting the forest conservation obligation on open space on the site through
15 retention and planting;
- 16 ▪ by designing the stormwater management facilities in locations and
17 configurations which will preserve a portion of the existing landscape edge to
18 Landing Road;
- 19 ▪ By designing a public access place road configuration (with a 40-foot right –
20 of-way width).

- 21 5. In employing these techniques, the limit of disturbance on the property is reduced
22 to the extent practicable. The amount of open space exceeds the stringent 50%
23 required while allowing the full yield of 43 residential units on the site. Buildings,
24 roads, stormwater management facilities and other site features are located to take
25 advantage of existing topography and to limit the extent of clearing and grading.
Most of the houses are located along a ridge, and grading is limited to the
minimum amount necessary to create lots for 31 new houses and the infrastructure
required to support the residential uses. The major environmental impact of
development on this site will be the proposed clearing of a portion of Forest Stand
2 and a number of specimen trees for 3 residential lots and a portion of Road B.
No disturbance is proposed to the priority forest (Forest Stand 1) which is on steep

1 slopes at the southwest corner of the site.

- 2 6. Setbacks, landscaped buffers or other methods are proposed to buffer the
3 development from existing neighborhoods or roads, especially from designated
4 scenic roads or historic districts. A 30-foot structure setback is required from the
5 project boundary for detached units. The Preliminary Equivalent Sketch Plan
6 proposal complies with this setback requirement.

7 Views from scenic Landing Road will be buffered by the distance and natural
8 topography, by forest conservation retention and planting areas and by appropriate
9 landscaping planting.

10 The Howard County Landscape Manual requires a Type A landscape buffer (1
11 shade tree per 60 feet) along the boundary of the site between proposed Single
12 Family Detached lots and other adjacent residential properties and a Type B buffer
13 (1 shade tree per 50 feet, plus 1 evergreen tree per 40 feet) around the stormwater
14 management pond. These planting requirements or appropriate alternative
15 landscape solutions, as well as street trees, will be designed as part of the final
16 construction drawings and subsequent site development plans.

17 A Forest Conservation Plan will be finalized as part of the construction drawings
18 at Final Plan. The area of forest retention to be permanently protected will be
19 recorded on a final plat as a forest conservation easement. Based on preliminary
20 calculations for the site, 1.21 acres of existing forest will be protected, and
21 additional 2.16 acres will be planted, meeting the entire obligation for the site.

- 22 7. The Planning Board accepted the evaluation of the Department of Planning and
23 Zoning as provided in the Technical Staff Report.

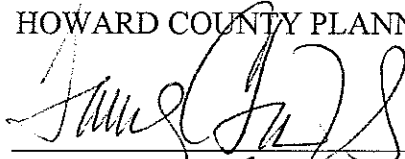
24 CONCLUSIONS OF LAW

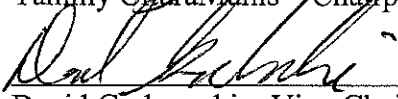
25 The proposed preliminary equivalent sketch plan, SP-06-15, Grovemont Overlook,
satisfies all of the standards for approval of a Sketch Plan provided in Section 107.E.6 of the
Howard County Zoning Regulations.

For the foregoing reasons, the petition of Donald Reuwer, Jr., for approval of a
Preliminary Equivalent Sketch Plan, SP-06-15, for 17.87 acres of land zoned R-ED, is this
25 25th day of January, 2007 GRANTED by the Planning Board of Howard County, and the

1 Board also hereby reserves for itself the authority to approve the site development plan for this
2 development.

3
4 HOWARD COUNTY PLANNING BOARD

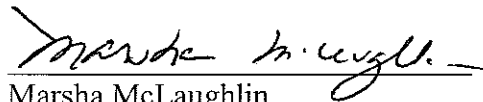
5 
6 Tammy Citaramanis – Chairperson

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8 David Grabowski – Vice-Chairperson

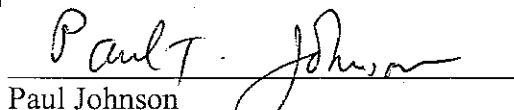
9
10 Linda A. Dombrowski

11 
12 Gary Rosenbaum

13 ATTEST:

14 
15 Marsha McLaughlin
16 Executive Secretary

17 REVIEWED FOR LEGAL SUFFICIENCY BY:
18 HOWARD COUNTY OFFICE OF LAW
19 BARBARA M. COOK
20 COUNTY SOLICITOR

21 
22 Paul Johnson
23 Deputy County Solicitor

24 APPLICANT'S EXHIBIT

25 Exhibit 1: SP-06-15, Grovemont Overlook Site Plan

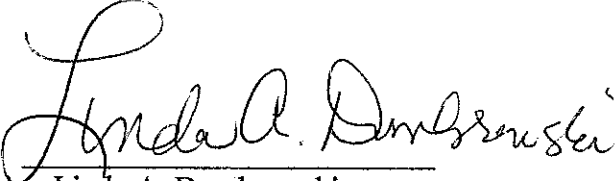
DISSENTING OPINION

I can not support the decision to approve the comprehensive sketch plan for the Preliminary Equivalent Sketch Plan, SP-06-15, Grovemont Overlook for the subdivision of 33 single family detached residential lots and 3 open space lots on 17.87 acres of land zoned R-ED (Residential-Environmental Development).

Instead, I believe that the Planning Board should have approved the comprehensive sketch plan for the Preliminary Equivalent Sketch Plan with a condition. While the petitioner presented a project that did indeed satisfy Section 107.E.6 of the Zoning Regulations with respect to the parcel, I believe that not enough was done to protect the environment and historic resources of neighboring parcels. Specifically I am addressing the testimony given by Ms. Hudson pertaining to the potential connection of Grovemont Overlook's main road which runs across the south-eastern portion of the site through the Patapsco State Park to Belmont Research and Conference Center.

I believe that concern should have been more definitively addressed particularly since the petitioner stated that they had not requested nor do they have any future plans to request a road connection to the adjacent public lands.

I believe that the Planning Board should have required the Grovemont Overlook road to end in a common-use driveway in place of the cul-de-sac thereby preventing any future connection to adjacent public lands.


Linda A. Dombrowski